



## Purpose

The purpose of this Construction Bulletin is to provide guidance to meet expanded federal requirements requiring American made materials in construction contracts.

## Background

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA), which includes the Build America, Buy America Act<sup>1</sup> (BABA). While existing Buy America requirements previously applied to iron, steel, and certain manufactured goods, BABA expands requirements to include all manufactured products and construction materials in construction contracts that include federal funding in the construction phase. **Buy America requirements still apply on iron and steel if there is federal funding in any stage when there is no federal funding in the construction phase.**

Manufactured products include any item produced as a result of the manufacturing process. Items that consist of two or more of the listed construction materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials.

Construction materials are defined as an article, material, or supply that is or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber or drywall. Construction Materials do not include items of primarily iron or steel; manufactured products; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

Existing nationwide waivers are being updated for manufactured products and for pig iron and processed, pelletized, and reduced iron ore.

**On August 16, 2023 the U.S. Department of Transportation issued a waiver for De Minimis Costs and Small Grants for Construction Materials. For projects awarded after this date, it allowed the option of having 5% of construction materials costs be foreign materials up to a maximum of one million dollars.**

## Guidance

Projects with federal construction funding will be subject to the new BABA requirements. WSDOT special provisions to be included will note all waivers.

1. Public Law 117-58, div G §§70901-52



Certification requirements remain the same for steel and iron. Material meeting the definition above for manufactured projects that contains steel or iron will require a Certification of Materials Origin (CMO) – DOT Form 350-109 - for the steel or iron permanently incorporated into the project. Foreign steel or iron permanently placed on the project will count towards the projects foreign steel and iron allowance.

The Contractor is required to submit a Certification of Material Origin – DOT Form 350-110 **or DOT Form 350-111** for all Construction Materials. **In the Contract, under “Construction Material Requirements” in Section 1-06 of the Provisions, the correct Form to submit for that Contract is listed.** The Certification will be completed for each pay estimate period, certifying that all Construction Materials that have been installed for that pay period are of domestic origin, or noting any that are of foreign origin. Payment shall be withheld until the CMO has been received each month. The project engineer shall discuss this at the pre-construction meeting.

**If DOT Form 350-110 is called out in the Provisions**, Construction Materials of foreign origin are not acceptable and the PE must ensure to defer payment. The Project Engineer will instruct the Contractor to remove any foreign Construction Materials installed that does not meet BABA requirements. If the material cannot be removed, consult with the State Construction Office for guidance.

**If DOT Form 350-111 is called out in the Provisions, then the De Minimis Costs waiver applies and a minor amount of Construction Material of foreign origin are acceptable. A tracking sheet is available on the Construction SharePoint site to track the cost of foreign construction material permanently incorporated into the project using the amounts submitted on CMOs.**

**If DOT Form 350-110 is called out in the Provisions, but the Contract was awarded on or after August 16, 2023, a change order may be considered on a case-by-case basis to add in the De Minimis waiver requirements with HQ Construction approval.**

Project teams may need to seek waivers on some requirements and submit them to federal agencies for consideration in the project development phase. Due to the length of time to obtain a waiver, WSDOT must seek waivers and not transfer the risk to Contractors.



## Resources

### General Special Provisions:

1-06.GR1 Control of Material (SS Heading)

1-06.OPT2.GR1 Build America/Buy America (Heading)

1-06.OPT2(A).GR1, BABA funding (includes steel & iron, CN materials, manufactured materials) 1-06.OPT2(B).FR1, BABA funding (List excluded temporary steel & iron, CN materials)

(Use existing Buy America GSPs listed under the heading 1-06.OPT1.GR1, when a project's NEPA phase is federally funded but there is no federal construction funding.)

### **Design Build Templates:**

Internally available at Design-Build Program – Home (SharePoint) in October 2023.

Externally available by contacting [Designbuild@wsdot.wa.gov](mailto:Designbuild@wsdot.wa.gov).

### **Forms:**

- Certificate of Materials Origin, DOT Form 350-109 (Use only for steel or iron)
- Certificate of Materials Origin, DOT Form 350-110 (Use only for construction materials)
- **Certificate of Materials Origin, DOT Form 350-111 (Use only for construction materials when De Minimis Waiver is included in the Provisions)**

### **Build America/Buy America Frequently Asked Questions**

### **Manuals:**

Construction Manual updates available in spring 2023. **A copy of the upcoming CM guidance is attached to this revised bulletin.**

## Implementation Plan

New and updated GSPs will be available October 5, 2022. Any project advertised on or after October 17, 2022, with federal construction funding will be subject to the new BABA requirements. Therefore, if a federally funded project has been advertised without BABA an addendum will be required.

Design Build Projects with proposals opened and Apparent Best Value determinations on/after November 10th, 2022, will include the BABA requirements.



State Construction Office  
Multimodal Development & Delivery

**Build America / Buy America**

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Date: Revised - December 20, 2023

**Additional Information**

The State Construction Office has generated list of materials and their designated category for BABA Requirement. Regardless of material classification, any steel or iron permanently incorporated will require the appropriate CMO.

This list will be revised as WSDOT becomes more familiar with FHWA expectations for the BABA program. (See Attachment A – Updated version attached with the revised bulletin dated April 17, 2023)

**Contact Information**

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1. Material meeting the definition for a Manufactured Product in the Contract containing steel or iron will require a Buy America CMO - DOT Form 350-109, and will be shown on this spreadsheet in the Steel or Iron column.
2. Manufactured Products not containing steel or iron are covered under a nationwide waiver and do not require certification.
3. Material shown in this column will require certification using DOT Form 350-110 or DOT Form 350-111 (form number will be specified in the Contract).
4. Material shown in this column will require certification using DOT Form 350-109 for steel or iron permanently placed.

<b>Build America Buy America (BABA) Materials</b>		<b>Buy America Materials</b>		
<b>Exempt</b>	<b>Manufactured Product<sup>1,2</sup></b>	<b>Construction Material<sup>3</sup></b>	<b>Steel or Iron<sup>4</sup></b>	<b>Comments</b>
9-01 Cement				
9-02 Bituminous Materials				
9-03 Aggregate				
	9-04 Joint Sealing Materials			
	9-04.1(1) Asphalt Filler for Contraction and Longitudinal Joints in Concrete Pavements			
	9-04.1(2) Premolded Joint Filler for Expansion Joints			
	9-04.2 Joint Sealants			
	9-04.2(1) Hot Poured Joint Sealants			
	9-04.2(1)A1 Hot Poured Sealant for Cement Concrete Pavement			
	9-04.2(1)A2 Hot Poured Sealant for Bituminous Pavement			
	9-04.2(1)B Sand Slurry for Bituminous Pavement			
	9-04.2(1)C Polymer Modified Asphalt Mastic			
	9-04.2(2) Poured Rubber Joint Sealer			
	9-04.2(3) Single-Component Polyurethane Sealant			
		9-04.2(3)A Closed Cell Foam Backer Rod		
	9-04.3 Joint Mortar			
		9-04.4 Pipe Joint Gaskets		
		9-04.4(1) Rubber Gaskets for Concrete Pipes and Precast Manholes		
		9-04.4(3) Gaskets for Aluminum or Steel Culvert or Storm Sewer Pipe		
		9-04.4(4) Rubber Gaskets for Aluminum or Steel Drain Pipe		

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
		9-04.5 Flexible Plastic Gaskets		
		9-04.6 Expanded Polystyrene		
		9-04.7 Expanded Rubber		
		9-04.8 Flexible Elastomeric Seals		
		9-04.9 Solvent Cements		
		9-04.10 Butyl Rubber and Nitrile Rubber		
		9-04.11 Butyl Rubber Sealant		
		9-04.12 External Sealing Band		
	9-05.1(1) Concrete Drain Pipe			
			9-05.1(2) Zinc Coated or Aluminum Coated Corrugated Iron or Steel Drain Pipe	
			9-05.1(2)A Coupling Bands	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-05.1(3) Corrugated Aluminum Alloy Drain Pipe		
			9-05.1(2)A Coupling Bands	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-05.1(5) PVC Drain Pipe, Couplings, and Fittings		
		9-05.1(6) Corrugated Polyethylene Drain Pipe, Couplings, and Fittings (Up to 10 inch)		
		9-05.1(7) Corrugated Polyethylene Drain Pipe, Couplings, and Fittings (12 inch Through 60 inch)		

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
	9-05.2(2) Perforated Concrete Underdrain Pipe			
			9-05.2(4) Zinc Coated (Galvanized) or Aluminum Coated (Aluminized) Corrugated	
			9-05.2(4)A Coupling Bands	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-05.2(5) Perforated Corrugated Aluminum Alloy Underdrain Pipe		
		9-05.2(5)A Coupling Bands		
		9-05.2(6) Perforated PVC Underdrain Pipe		
		9-05.2(7) Perforated Corrugated Polyethylene Underdrain Pipe (Up to 10 inch)		
		9-05.2(8) Perforated Corrugated Polyethylene Underdrain Pipe (12-Inch Through 60 Inch Diameter Maximum), Couplings, and Fittings		
			9-05.3 Concrete Culvert Pipe	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-05.3(1) Plain Concrete Culvert Pipe			
	9-05.3(1)A End Design and Joints			
			9-05.3(2) Reinforced Concrete Culvert Pipe	
	9-05.3(2)A End Design and Joints			

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-05.3(2)D Elliptical Reinforcement	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-05.3(3) Beveled Concrete End Sections			
			9-05.4 Steel Culvert Pipe and Pipe Arch	
9-05.4(3) Protective Treatment				
9-05.4(4) Asphalt Coatings and Paved Inverts				
		9-05.4(5) Polymer Protective Coating		
9-05.4(6) Spun Asphalt Lining				
		9-05.4(7) Coupling Bands	9-05.4(7) Coupling Bands	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
			9-05.4(8) Steel Nestable Pipe	
			9-05.4(9) Steel End Sections	
		9-05.4(9)C Toe Plate Extensions	9-05.4(9)C Toe Plate Extensions	
		9-05.5 Aluminum Culvert Pipe		
		9-05.5(5) Coupling Bands	9-05.5(5) Coupling Bands	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
		9-05.5(6) Aluminum End Sections		
			9-05.6 Structural Plate Pipes, Arches and Boxes	
			9-05.6(1) Steel Structural Plate Structures	
		9-05.6(2) Aluminum Structural Plate Structures		
	9-05.7(1) Plain Concrete Storm Sewer Pipe			
			9-05.7(2) Reinforced Concrete Storm Sewer Pipe	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

Build America Buy America (BABA) Materials		Buy America Materials		
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
	9-05.7(3) Concrete Storm Sewer Pipe Joints			
		9-05.8 Vitrified Clay Sewer Pipe		
			9-05.9 Steel Spiral Rib Storm Sewer Pipe	
			9-05.9(1) Continuous Lock Seam Pipe	
		9-05.9(3) Coupling Bands	9-05.9(3) Coupling Bands	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
			9-05.10 Steel Storm Sewer Pipe	
		9-05.10(1) Coupling Bands	9-05.10(1) Coupling Bands	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
		9-05.11 Aluminum Storm Sewer Pipe		
		9-05.11(1) Coupling Bands		
		9-05.12 Polyvinyl Chloride (PVC) Pipe		
		9-05.12(1) Solid Wall PVC Culvert Pipe, Solid Wall PVC Storm Sewer Pipe, and Solid Wall PVC Sanitary Sewer Pipe		
		9-05.12(2) Profile Wall PVC Culvert Pipe, Profile Wall PVC Storm Sewer Pipe, and Profile Wall PVC Sanitary Sewer Pipe		
			9-05.13 Ductile Iron Sewer Pipe	
		9-05.14 ABS Composite Sewer Pipe		
			9-05.15 Metal Castings	
			9-05.15(1) Manhole Ring and Cover	
			9-05.15(2) Metal Frame, Grate, and Solid Metal Cover for Catch Basins or Inlets	
			9-05.15(3) Cast Metal Inlets	

Build America Buy America (BABA) Materials		Buy America Materials		
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-05.16 Grate Inlets and Drop Inlets	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-05.17 Aluminum Spiral Rib Storm Sewer Pipe		
		9-05.17(1) Continuous Lock Seam Pipe		
		9-05.17(2) Coupling Bands		
			9-05.18 Safety Bars for Culvert Pipe	
		9-05.19 Corrugated Polyethylene Culvert Pipe, Couplings, and Fittings		
		9-05.20 Corrugated Polyethylene Storm Sewer Pipe, Couplings, and Fittings		
			9-05.21 Steel Rib Reinforced Polyethylene Culvert Pipe	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-05.22 Steel Rib Reinforced Polyethylene Storm Sewer Pipe	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-05.23 High-Density Polyethylene (HDPE) Pipe		
		9-05.24 Polypropylene Culvert Pipe, Polypropylene Storm Sewer Pipe, and Polypropylene Sanitary Sewer Pipe		
		9-05.24(1) Polypropylene Culvert Pipe and Storm Sewer Pipe		
		9-05.24(2) Polypropylene Sanitary Sewer Pipe		

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-05.50 Precast Concrete Drainage Structures	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-05.50(2) Manholes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-05.50(3) Precast Concrete Catch Basins	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-05.50(4) Precast Concrete Inlets	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-05.50(5) Precast Concrete Drywells	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-05.50(9) Synthetic Micro Fibers for Precast Units			
	9-05.50(10) Synthetic Macro Fibers for Precast Units			
			9-06 Structural Steel and Related Materials	
			9-06.5(1) Unfinished Bolts	
			9-06.5(3) High-Strength Bolts	
			9-06.5(4) Anchor Bolts and Anchor Rods	
			9-06.8 Steel Castings	

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-06.9 Gray Iron Castings	
			9-06.10 Malleable Iron Castings	
			9-06.11 Steel Forgings and Steel Shafting	
		9-06.12 Bronze Castings		
			9-06.14 Ductile Iron Castings	
			9-06.15 Welded Shear Connectors	
			9-06.16 Roadside Sign Structures	
			9-06.17 Noise Barrier Wall Access Door	
		9-06.18 Metal Bridge Railing	9-06.18 Metal Bridge Railing	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
			9-06.19 Strip Seal and Modular Expansion Joint System Components	
			9-06.22 Bolts, Washers, and Other Hardware	
			9-07 Reinforcing Steel	
			9-07.4 Plain Steel Bars	
			9-07.5 Dowel Bars (for Cement Concrete Pavement)	
			9-07.7 Welded Wire Reinforcement	
			9-07.8 Deformed Wire	
			9-07.9 Cold Drawn Wire	
			9-07.10 Prestressing Reinforcement Strand	
			9-07.11 Prestressing Reinforcement Bar	
	9-08 Paints and Related Materials			
	9-08.1(2)A Vinyl Pretreatment			
	9-08.1(2)B Galvanizing Repair Paint, High Zinc Dust Content			
	9-08.1(2)C Inorganic Zinc-Rich Primer, Shop Applied			
	9-08.1(2)D Vacant			
	9-08.1(2)E Epoxy Polyamide			
	9-08.1(2)F Primer, Zinc-Rich, Single-Component, Moisture-Cured Polyurethane, Field Applied			
	9-08.1(2)G Intermediate and Stripe Coat, Single Component, Moisture-Cured Polyurethane			

<b>Build America Buy America (BABA) Materials</b>		<b>Buy America Materials</b>		
<b>Exempt</b>	<b>Manufactured Product<sup>1,2</sup></b>	<b>Construction Material<sup>3</sup></b>	<b>Steel or Iron<sup>4</sup></b>	<b>Comments</b>
	9-08.1(2)H Top Coat, Single-Component, Moisture-Cured Polyurethane			
	9-08.1(2)I Rust-Penetrating Sealer			
	9-08.1(2)J Black Enamel			
	9-08.1(2)K Orange Equipment Enamel			
	9-08.1(2)L Exterior Acrylic Latex Paint-White			
	9-08.2 Powder Coating Materials for Coating Galvanized Surfaces			
	9-08.3(1) Pigmented Sealer Materials			
	9-08.3(2)A Retardant Coating			
	9-08.3(2)B Clear Sealer			
	9-08.3(3) Permeon Treatment			
	9-08.4 Abrasive Blast Materials			
	9-08.5 Surface Cleaning Materials			
		9-08.6 Filter Fabric		
	9-08.7 Single-Component Polyurethane Sealant			
	9-08.8 Foam Backer Rod			
		9-09 Timber and Lumber		
		9-09.2(1) Structures		
		9-09.2(2) Guardrail Posts and Blocks		
		9-09.2(3) Signposts, Mileposts, Sawn Fence Posts, and Mailbox Posts		
		9-09.3 Preservative Treatment		
		9-09.3(1) General Requirements		
		9-10.1 Timber Piling		
		9-10.1(1) Untreated Piling		
		9-10.1(2) Creosote Treated Piling		
		9-10.1(3) Timber Composite Piling		

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-10.2 Concrete Piling	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-10.2(2) Reinforcement	
			9-10.3 Cast-In-Place Concrete Piling (reinforcement Steel)	
			9-10.4 Steel Pile Tips and Shoes	
			9-10.5 Steel Piling	
	9-11 Waterproof Membrane			
9-12 Masonry Units				
9-12.1 Concrete Blocks				
9-12.2 Concrete Brick				
9-13 Riprap, Quarry Spalls, Slope Protection, and Rock for Erosion and Scour Protection and Rock Walls				
9-13.5(3) Pneumatically Placed Portland Cement or Blended Hydraulic Cement Concrete Slope Protection				
9-14 Erosion Control and Roadside Planting				
	9-14.4 Fertilizer			
9-14.2(1) Topsoil Type A				
9-14.2(2) Topsoil Type B				
9-14.2(3) Topsoil Type C				
	9-14.3 Seed			
	9-14.4 Fertilizer			
	9-14.5(1) Straw			
	9-14.5(2) Hydraulically Applied Erosion Control Products (HECPs)			
	9-14.5(2)A Long-Term Mulch			
	9-14.5(2)B Moderate-Term Mulch			
	9-14.5(2)C Short-Term Mulch			
		9-14.5(3) Bark or Wood Chip Mulch		
		9-14.5(4) Wood Strand Mulch		

<b>Build America Buy America (BABA) Materials</b>		<b>Buy America Materials</b>		
<b>Exempt</b>	<b>Manufactured Product<sup>1,2</sup></b>	<b>Construction Material<sup>3</sup></b>	<b>Steel or Iron<sup>4</sup></b>	<b>Comments</b>
	9-14.5(5) Agricultural Grade Dolomite Lime			
	9-14.5(6) Agricultural Grade Gypsum			
	9-14.5(7)A Organic Tackifier			
	9-14.5(7)B Synthetic Tackifier			
	9-14.5(8) Compost			
	9-14.5(9) Horticultural Grade Perlite			
	9-14.6(1) Polyacrylamide (PAM			
	9-14.6(2) Biodegradable Erosion Control Blanket			
	9-14.6(2)A Biodegradable Erosion Control Blanket for Slopes Steeper than 3:1 (H:V)			
	9-14.6(2)B Biodegradable Erosion Control Blanket for Slopes Flatter than 3:1 (H:V)			
	9-14.6(2)C Biodegradable Erosion Control Blanket for Ditches			
9-14.6(3) Plastic Covering				
	9-14.6(4)A Biodegradable Check Dams			
	9-14.6(4)B Non-biodegradable Check Dams			
	9-14.6(5) Wattles			
	9-14.6(6) Compost Socks			
	9-14.6(7) Coir Log			
9-14.6(8) High Visibility Fencing				
9-14.6(9) High Visibility Silt Fence				
	9-14.7 Plant Materials			
	9-14.7(4) Sod			
	9-14.8 Stakes, Guys, and Wrapping			
			9-15.1(1) Galvanized Pipe and Fittings	
		9-15.1(2) Polyvinyl Chloride Pipe and Fittings		
		9-15.1(3) Polyethylene Pipe		
		9-15.2 Drip Tubing		
	9-15.3 Automatic Controllers			
	9-15.4 Irrigation Heads			
	9-15.5 Valve Boxes			

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
	9-15.6 Gate Valves			
	9-15.7 Control Valves			
	9-15.7(1) Manual Control Valves			
	9-15.7(2) Automatic Control Valves			
	9-15.7(3) Automatic Control Valves With Pressure Regulator			
		9-15.8 Quick Coupling Equipment		
		9-15.9 Drain Valves	9-15.9 Drain Valves	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
		9-15.10 Hose Bibs		
	9-15.11 Cross Connection Control Devices			
	9-15.12 Check Valves			
			9-15.13 Pressure Regulating Valves	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-15.14 Three-Way Valves	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-15.15 Flow Control Valves	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-15.16 Air Relief Valve			
	9-15.17 Electrical Wire and Splices			
	9-15.18 Detectable Marking Tape			

Build America Buy America (BABA) Materials		Buy America Materials		
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-15.19 Wye Strainers	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-16.1 Chain Link Fence and Gates	
			9-16.1(1)A Post Material for Chain Link Fence	
			9-16.1(1)B Chain Link Fence Fabric	
			9-16.1(1)C Tension Wire	
			9-16.1(1)D Fittings and Hardware	
			9-16.1(1)E Chain Link Gates	
9-16.1(1)F Concrete				
			9-16.2 Wire Fence and Gates	
			9-16.2(1)A Steel Post Material	
		9-16.2(1)B Wood Fence Posts and Braces		
			9-16.2(1)C Brace Wire	
			9-16.2(1)D Staples and Wire Clamps	
			9-16.2(1)E Barbed Wire	
			9-16.2(1)F Wire Mesh	
			9-16.2(1)G Vertical Cinch Stays	
			9-16.2(1)H Miscellaneous Hardware	
			9-16.2(1)I Wire Gates	
9-16.2(1)J Concrete				
			9-16.3 Beam Guardrail	
			9-16.3(1) Rail Element	
		9-16.3(2) Posts and Blocks	9-16.3(2) Posts and Blocks	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
	9-16.3(3) Galvanizing			
			9-16.3(4) Hardware	
			9-16.3(5) Anchors	
			9-16.4 Wire Mesh Slope Protection	
			9-16.4(2) Wire Mesh	
			9-16.4(3) Wire Rope	
			9-16.4(4) Hardware	
			9-16.4(5) Fasteners and Lacing Wire	

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-16.4(6) Ground Anchors	
			9-16.6 Glare Screen	
		9-16.6(2) Glare Screen Fabric	9-16.6(2) Glare Screen Fabric	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
			9-16.6(3) Posts	
			9-16.6(4) Tension Wire	
			9-16.6(6) Tension Wire Attachments	
		9-16.6(7)A Wood Slats		
		9-16.6(7)B Plastic Slats		
			9-16.6(8) Fittings	
			9-16.6(9) Fabric Bands and Stretcher Bars	
			9-16.6(10) Tie Wire and Hog Rings	
	9-17 Flexible Guide Posts			
	9-17.1(2) Reflective Sheeting			
		9-19.1 Surface Applied Detectable Warning Surface	9-19.1 Surface Applied Detectable Warning Surface	Category will depend on material used. Buy America CMO - DOT Form 350-109 - is required for any steel or iron permanently placed.
9-20 Concrete Patching Material, Grout, and Mortar				
	9-21 Raised Pavement Markers (RPM)			
	9-21.1 Raised Pavement Markers Type 1			
	9-21.2 Raised Pavement Markers Type 2			
	9-21.3 Raised Pavement Markers Type 3			
			9-22 Monument Cases	
	9-23 Concrete Curing Materials, Bonding Agents, and Admixtures			
		9-24 Plastic Waterstop		
9-25 Water				
	9-26 Epoxy Resins			
	9-26.1 Epoxy Bonding Agents			
	9-26.2 Epoxy Adhesive for Lane Markers			
	9-26.3 Epoxy Grout/Mortar/Concrete			
			9-27 Cribbing	
			9-27.3(1) Gabion Fabric	
			9-27.3(2) Gabion Baskets	
			9-27.3(3) Gabion Mattresses	
			9-27.3(4) Fasteners for Basket Assembly	

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
9-27.3(6) Stone				
			9-28 Signing Materials and Fabrication	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-28.11 Hardware	
		9-28.14(1) Timber Sign Posts		
			9-28.14(2) Steel Structures and Posts	
			9-28.14(2)A Monotube Sign Bridge and Cantilever Sign Structures	
		9-28.14(3) Aluminum Structures		
			9-29.1(1) Rigid Metal Conduit, Galvanized Steel Outerduct, and Fittings	
			9-29.1(2) Rigid Metal Conduit Fittings and Appurtenances	
			9-29.1(2)A Expansion Fittings, Deflection Fittings, and Combination Expansion/Deflection Fittings	
			9-29.1(3) Flexible Metal Conduit	
			9-29.1(3)A Flexible Metal Conduit Appurtenances	
		9-29.1(4)A Rigid PVC Conduit		
		9-29.1(4)B Expansion Fittings		
		9-29.1(4)C HDPE Conduit		
	9-29.1(5) Innerduct and Outerduct			
			9-29.1(5)A Rigid Galvanized Steel Outerduct With PVC or PE Innerduct	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-29.1(5)B Rigid PVC Outerduct With PVC or PE Innerduct			

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.1(5)C Innerduct for Straight Sections of Galvanized Steel Outerduct or PVC Outerduct	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-29.1(5)D Conduit With Innerducts Fittings and Appurtenances			
	9-29.1(6) Detectable Underground Warning Tape			
			9-29.1(7) Steel Casings	
			9-29.2 Junction Boxes, Cable Vaults, and Pull Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.2(1)A1 Concrete Junction Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.2(1)A2 Non-Concrete Junction Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.2(1)B Heavy-Duty Junction Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.2(2) Cable Vaults and Pull Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.2(2)A Standard Duty Cable Vaults and Pull Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.2(2)B Heavy-Duty Cable Vaults and Pull Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-29.3 Fiber Optic Cable, Electrical Conductors, and Cable			
			9-29.4 Messenger Cable, Fittings 9-29.6 Light and Signal Standards	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-29.6(3) Timber Light Standards, Timber Strain Poles, Timber Service Supports		
			9-29.6(5) Foundation Hardware	
			9-29.7 Luminaire Fusing and Electrical Connections at Light Standard Bases, Cantilever Bases, and Sign Bridge Bases	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.9 Ballast, Transformers	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.9(1) Ballast	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.9(2) Transformers	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.10 Luminaires	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.11 Control Equipment	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.12 Electrical Splice Materials	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.13 Control Cabinet Assemblies	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.15 Flashing Beacon Control	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16 Vehicular Signal Heads, Displays, and Housing	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1) Optically Programmed, Adjustable Face, and Programmable Array 12-Inch Traffic Signal	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)A Optical System	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)A1 Non-LED Optical System	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.16(1)A2 LED Programmable Array	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)B Housing Construction	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)D Housing Electrical	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)E Photo Controls	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(1)E2 LED Photo Controls	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.16(2) Conventional Traffic Signal Heads	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-29.16(3) Polycarbonate Traffic Signal Heads	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.19 Pedestrian Push Buttons	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.20 Pedestrian Signals	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.21 Flashing Beacon	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-29.24 Service Cabinets	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
	9-30.1(2) Polyethylene Encasement		9-30.1(1) Ductile Iron Pipe	
			9-30.1(4) Steel Pipe	
			9-30.1(4)A Steel Pipe (6 inches and Over)	
			9-30.1(4)B Steel Pipe (4 inches and Under)	
		9-30.1(5) Polyvinyl Chloride (PVC)		
		9-30.1(5)A Polyvinyl Chloride (PVC) Pipe (4 inches and Over)		

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
		9-30.1(5)B Polyvinyl Chloride (PVC) Pipe (Under 4 inches)		
		9-30.1(6) Polyethylene (PE) Pressure Pipe (4 inches and Over)		
			9-30.2 Fittings	
			9-30.2(1) Ductile Iron Pipe	
			9-30.2(4) Steel Pipe	
			9-30.2(4)A Steel Pipe (6 inches and Over)	
			9-30.2(4)B Steel Pipe (4 inches and Under)	
		9-30.2(5) Polyvinyl Chloride (PVC) Pipe		
		9-30.2(5)A Polyvinyl Chloride (PVC) Pipe (4 inches and Over)		
		9-30.2(5)B Polyvinyl Chloride (PVC) Pipe (Under 4 inches)		
			9-30.2(7) Bolted, Sleeve-Type Couplings for Plain End Pipe	
			9-30.2(8) Restrained Flexible Couplings	
		9-30.2(10) Polyethylene (PE) Pipe (4 inches and Over)		
			9-30.2(11) Fabricated Steel Mechanical Slip-Type Expansion Joints	
			9-30.3 Valves	
			9-30.3(1) Gate Valves (3 to 16 inches)	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.3(3) Butterfly Valves	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-30.3(4) Valve Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.3(5) Valve Marker Posts	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.3(6) Valve Stem Extensions	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.3(7) Combination Air Release/Air Vacuum Valves	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.3(8) Tapping Sleeve and Valve Assembly	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.5 Hydrants	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.5(3) Hydrant Extensions	

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-30.5(4) Hydrant Restraints 9-30.5(5) Traffic Flange	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.5(6) Guard Posts	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.6 Water Service Connections (2 inches and Smaller)	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.6(1) Saddles	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-30.6(2) Corporation Stops	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-30.6(3)A Copper Tubing		
		9-30.6(3)B Polyethylene Tubing		
		9-30.6(3)C PEX-a Tubing		
			9-30.6(4) Service Fittings	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.

	Build America Buy America (BABA) Materials		Buy America Materials	
Exempt	Manufactured Product <sup>1,2</sup>	Construction Material <sup>3</sup>	Steel or Iron <sup>4</sup>	Comments
			9-30.6(5) Meter Setters	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
		9-30.6(6) Bronze Nipples and Fittings		
			9-30.6(7) Meter Boxes	Material meets definition of a Manufactured Product in the Contract. A Buy America CMO - DOT Form 350-109 - is required for any steel or iron included in the material that is permanently incorporated.
			9-31.1 Steel Plates and Bars	
			9-31.2 Stainless Steel	
			9-31.3 Bearing Blocks and Keeper Rings	
			9-31.4 Pin Assembly	
			9-31.5 Welded Shear Connectors	
			9-31.6 Bolts, Nuts and Washers	
			9-31.7 Anchor Array Rods, Nuts and Washers	
			9-31.8(1) Elastomeric Pads	
	9-31.8(2) Polytetrafluoroethylene (PTFE)			
	9-31.8(3) Pre-formed Fabric Pad			
	9-31.9 Polyether Urethane			
	9-31.11 Epoxy Gel			
	9-31.12 Resin Filler			
			9-32.1 Steel Posts	
			9-32.2 Bracket, Platform, and Anti-Twist Plate	
			9-32.5 Fasteners	
			9-32.7 Type 2 Mailbox Support	
	9-32.8 Concrete Base			
			9-32.9 Steel Pipe	
		9-33 Construction Geosynthetic		
		9-33.1 Geosynthetic Material Requirements		
		9-33.2(1) Geotextile Properties		

<b>Build America Buy America (BABA) Materials</b>		<b>Buy America Materials</b>		
<b>Exempt</b>	<b>Manufactured Product<sup>1,2</sup></b>	<b>Construction Material<sup>3</sup></b>	<b>Steel or Iron<sup>4</sup></b>	<b>Comments</b>
		9-33.2(2) Geotextile Properties for Retaining Walls and Reinforced Slopes		
		9-33.2(3) Prefabricated Drainage Mat		
9-33.3 Aggregate Cushion of Permanent Erosion Control Geotextile				
	9-33.4 Geosynthetic Material Approval and Acceptance			
	9-34.2 Paint			
	9-34.2(4) Low VOC Solvent Based Paint			
	9-34.2(6) Temporary Pavement Marking Paint			
	9-34.3(1) Type A – Liquid Hot Applied Thermoplastic			
	9-34.3(2) Type B – Pre-Formed Fused Thermoplastic			
	9-34.3(3) Type C – Cold Applied Pre-Formed Tape			
	9-34.3(4) Type D – Liquid Cold Applied Methyl Methacrylate			
		9-34.4 Glass Beads for Pavement Marking Materials		
	9-34.5 Temporary Pavement Marking Tape			
	9-34.6 Temporary Flexible Raised Pavement Markers			
	9-35 Temporary Traffic Control Materials			
			9-36.1(1) Permanent Casing	
	9-36.2(1) Mineral Slurry			
	9-36.2(2) Synthetic Slurry			
			9-36.3 Steel Reinforcing Bar Centralizers	
			9-36.4 Access Tubes and Caps	
9-36.5 Grout for Access Tubes				

## 9-1 .2E Certification of Materials Origin

**For Contracts Advertised Before January 11, 2016 - Contact the State Construction Office for Buy America Requirements**

**Contracts Advertised After January 11, 2016:**

### **Buy America - Steel and Iron**

Buy America (23 CFR 635.410, 23 USC 313) requires that all steel or iron material permanently incorporated into the project are made in the United States for:

- Contracts that include federal funding in the construction phase, or
- Any project defined in the Federal Record Decision under the National Environmental Policy Act (NEPA).
  - If federal funds were used in any of the previous phases of the Contract (Design or Right of Way), the construction Contract must include Buy America requirements, even if federal funds were not used in the construction phase.

Buy America requirements are incorporated into the Contract by General Special Provision.

WSDOT uses a certification process to ensure compliance with Buy America requirements. **A Certification of Materials Origin (CMO) must be submitted to the Project Engineer for all steel and iron permanently incorporated into the project prior to placement.** There are no exceptions to this requirement. The Contractor may use DOT Form 350-109 or another form containing the same information.

The Contractor may choose to utilize minor quantities of foreign steel and iron, as allowed in the General Special Provision. Foreign steel and iron material costs cannot exceed one-tenth of one percent of the total Contract cost or \$2,500.00, whichever is greater.

A tracking sheet is available on the Construction SharePoint site to track the cost of foreign steel and iron permanently incorporated into the project using the amounts shown on submitted CMOs (if any). If the tracking sheet shows that the foreign steel and iron allowance has been exceeded, contact the State Construction Office immediately. Exceeding the allowable amount of foreign steel and iron will likely result in the loss of federal funding for the whole project.

State Agency and/or Contractor supplied material and proprietary items are subject to Buy America requirements. They require a CMO and must be included in the calculation when determining the amount of foreign steel and iron incorporated for each project.

The Project Engineer must ensure the CMOs are on file prior to placing or paying for bid items containing steel or iron as defined below.

## **Fabricated Items**

- WSDOT Fabrication Inspection Office will review the supporting documents (mill certifications and CMOs) prior to inspecting and stamping fabricated material. The required CMO for steel and iron incorporated into fabricated material will be provided by the manufacturer to the Project Office through the Contractor for retention. The WSDOT Fabrication Inspection Office may retain a copy of the CMO for retention.
- The Project Inspector is required to document if fabricated material has been stamped with a “D” for domestic or an “F” for foreign to indicate the material origin as outlined in Section 9-1.5. Fabricated items stamped with an “F” or that do not have any stamp when delivered to the job site will require additional verification prior to incorporation of the material into the project.
  - If the item is stamped with an “F” contact the WSDOT Fabrication Office or the Contractor to request a copy of the CMO. The dollar amounts shown for foreign steel or iron incorporated into the item must be added to the foreign steel tracking sheet - DOT Form 350-005 Buy America Foreign Steel Tracking Sheet is available for use.
  - Contact the WSDOT Fabrication Office for direction for fabricated items requiring inspection that are lacking any stamp.

## **Non-Fabricated Items**

- The Project Engineer will ensure that a completed CMO for all material containing steel or iron that is permanently incorporated is submitted prior to incorporation and that it is retained with the project documentation.

## **Build America/Buy America (BABA) - Construction Materials**

Build America/Buy America - BABA (Public Law 117-58) requires that all construction material permanently incorporated into the project be made in the United States for:

- Contracts that include federal funding in the construction phase

BABA requirements are incorporated into the Contract by General Special Provision.

WSDOT uses a certification process to ensure compliance with BABA requirements. A Certification of Materials Origin (CMO) must be submitted to the Project Engineer for all construction material incorporated into the project before payment of each progress estimate. The CMO will certify that all the construction materials installed during the current progress estimate period were made in the United States. The Contractor may use WSDOT provided CMOs or another form containing the same information.

State Agency and/or Contractor supplied material and proprietary items are subject to Buy America requirements, requiring a CMO.

**The Project Engineer cannot approve payment for a progress estimate if a CMO is not on file to certify that material installed meets BABA requirements.**

## **Contracts advertised on or after October 17, 2022 with an award date before August 16, 2023 – DOT Form 350-110**

If a CMO is received showing that foreign made construction material was installed the Project Engineer will:

- Defer the amount shown as the “Invoice Cost” of the foreign material prior to approving payment.
- Direct the Contractor to remove the foreign made construction material.

After the foreign made construction material has been replaced, request an updated CMO to support release of the deferred payment and document that all construction materials installed were made in the United States.

If removing the foreign construction materials will significantly impact project time/schedule or be cost-prohibitive, contact your Assistant State Construction Engineer (ASCE) for guidance on the appropriate way to proceed.

A list is available on the Construction SharePoint site to determine those materials that are designated as a construction material under BABA requirements. This list is for reference only and is subject to change as the BABA requirements become more defined by FHWA.

### **Contracts awarded after August 16, 2023 - DOT Form 350-111**

A nationwide waiver allows for placement of minor amounts of foreign construction material if the value is less than 5% of the total applicable material costs and not exceed \$1,000,000. The total applicable material cost includes material defined as construction materials, manufactured products, and steel or iron. Construction materials do not include cement and cementitious materials, aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

The foreign steel and iron allowance for projects remains unchanged and must be tracked separately.

#### **Foreign material allowances:**

**Construction Materials** – Includes invoice costs of foreign material reported on CMO Form 350-111 not to exceed the lesser of 5% of the actual cost of applicable materials installed for the project or \$1,000,000.

**Steel or Iron** – Includes invoice cost of foreign material reported on CMO Form 350-109 not to exceed one-tenth of 1% of the total Contract cost or \$2,500.00, whichever is greater.

A tracking sheet is available on the [Construction SharePoint](#) site to track the cost of foreign construction material permanently incorporated into the project using the amounts submitted on CMOs.

If at any time the tracking sheet shows that an excess of \$1,000,000 in foreign construction materials have been permanently placed, contact the State Construction Office for guidance. Exceeding the allowable amount of foreign construction materials will likely result in the loss of federal funding.

### **Build America/Buy America (BABA) - Manufactured Products**

A nationwide waiver has been approved for material identified as manufactured products and the BABA requirements noted above do not apply to them.

## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

Below is the tracking of questions that have already been asked regarding administering Contracts with BABA requirements.

If there is a question not answered within, please email Heidi Jensen at [Jensenh@wsdot.wa.gov](mailto:Jensenh@wsdot.wa.gov).

# Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff

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## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

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## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

**The answers given below only apply to BABA requirements – specific to materials installed that are categorized as construction materials - and are not valid for steel or iron installed that is subject to Buy America requirements.**

### **BABA Requirements - Policy**

**1. Are temporary items exempt from BABA requirements?**

Yes, temporary items that are removed from the project are exempt from BABA requirements.

**2. We received a question that other states have different BABA requirements than WA and want to know why requirements in each state can vary?**

Most of the decision-making process of how to implement BABA requirements is determined within each state, working with their FHWA Division Office for approval, which can result in differences across the states.

The FHWA contact for Buy America and Build America Buy America (BABA) can be found on the FHWA [BA webpage](#).

**3. Do we need to include a change order to document the nationwide waiver for manufactured products?**

No, language regarding the nationwide waiver for manufactured products is included in the Contract Provisions.

**4. Will there be an excel tracking sheet for BABA like the one used to track foreign steel or iron for Buy America?**

No, there is no allowance for installation of foreign construction materials in the law. If a BABA CMO is received showing that foreign construction materials were installed the project office will need to follow the guidance in Questions 10 and 11 below.

## Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff

5. **It is impossible to manufacture aluminum completely in the United States as we no longer mine Boxite nor do we smelt aluminum. How can we install aluminum on a project and remain BABA compliant?**

Aluminum would be considered made in the United States in some cases when following the BABA law preliminary guidance and FHWA BABA Q&A #7, if steps 2 through 4 occur in the United States:

1. Raw material mined
2. Smelted to make some bulk for Aluminum
3. Bulk Aluminum Combined with alloys and stamped to make sheets or rounds of Aluminum or just stamped to make bulk structural shapes
4. Rounds/Sheets are corrugated and pressed to make products (culverts, etc.)

- 5a. **Signing materials and fabrication is in the Buy America Materials column in the bulletin, but if the sign is sheet aluminum, would the sign be considered a construction material?**

Aluminum signs fall into the “manufactured products” category, and are exempt from BABA requirements. The sheeting is integral to the products, making it a combination of two different categories.

Any steel mounting hardware would still require the appropriate steel or iron CMO.

### Material Classification – Spreadsheet

6. **What if a material is listed on the spreadsheet as a manufactured product, but the material approved for installation includes steel or iron?**

The RAM will need to be coded to require a steel or iron CMO and we will need to ensure the CMO is on file prior to permanently incorporating the steel or iron into the project.

7. **What if we receive a question from the Contractor about a material that they believe is listed in the wrong category on the spreadsheet?**

Questions regarding classification of a material on the spreadsheet can be emailed to the State Construction Office at [DOTconstruction@WSDOT.WA.GOV](mailto:DOTconstruction@WSDOT.WA.GOV).

## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

### **8. What if a material is installed that is not shown on the spreadsheet?**

The BABA requirements in the Contract Provisions include definitions to help determine material classification. The Project Office can make the material classification determination but will classify material with any amount of steel or iron in the steel or iron category requiring the appropriate CMO (DOT Form 350-109).

Additional materials identified that should be included on the spreadsheet can be submitted to the State Construction Office for inclusion on the posted spreadsheet.

### **9. For current contracts that have been awarded, how do we enforce the category of materials listed on the spreadsheet, especially since it is in draft form and subject to revisions?**

The spreadsheet to categorize material is available for reference only. The Contractor must use the definitions in the Contract Provisions to identify material that will require certification as a construction material.

## **BABA Certification of Materials Origin - CMO**

### **10. What do we do if a BABA CMO is received showing that foreign construction material was installed?**

1. Defer the amount shown as the invoice cost on the CMO.
2. The Project Engineer must direct the Contractor to remove the foreign construction materials and replace it with domestic construction materials.
3. Once removed and replaced, the Contractor will need to submit a revised CMO showing that no foreign construction materials were placed.
4. The deferred amount can be paid on the next progress estimate.
5. The original CMO, revised CMO, and the communication directing the Contractor to remove the foreign construction materials and replace it with domestic must be filed together in the project files.

### **11. What do we do if the BABA CMO shows foreign construction materials were installed but cannot be removed?**

Contact your ASCE for guidance. Leaving foreign construction materials in place requires FHWA approval.

## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

### **12. Is solid PVC pipe with gaskets categorized correctly on the spreadsheet as a construction material?**

Yes, FHWA has verified that solid PVC pipe with gaskets is a construction material and if sourced outside of the US would likely not meet BABA requirements.

### **13. Is the BABA CMO required even if the estimate payment does not include payment for any materials (like only flagging or setting temporary signs)?**

Yes, the Contract language does not allow for not collecting the form for instances where a CMO might not be required for construction materials. It simply states that a CMO must be on file before the Contractor will receive payment.

### **14. Does the BABA CMO for construction materials need to list all the bid items or material they are certifying?**

No, the BABA CMO is a blanket certification that is certifying all the material associated with the specific estimate number noted on the form.

### **15. When should we receive the BABA CMO?**

The Contractor is certifying that all the construction materials installed for a specific estimate was made in the United States, the CMO should be received close to estimate cutoff.

### **16. Do we need to collect a BABA CMO for items identified as a manufactured product on the spreadsheet?**

No, there is a nationwide waiver in effect for manufactured products. BABA requirements do not apply to material classified as manufactured products while the waiver remains in effect.

### **17. Is it just enough to review the pre-estimate to ensure that all the CMOs were received prior to material installation instead of collecting this additional BABA CMO before we make the payment?**

The CMOs received prior to installation are for steel or iron and cannot be used as the BABA CMO to certify the construction materials installed on the project. The CMO for steel or iron cannot be used for construction materials or vice versa:

- DOT Form 350-109 – Certification of Materials Origin for acceptance of Steel or Iron ONLY

## **Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff**

- DOT Form 350-110 – Certification of Materials Origin for acceptance of Construction Materials ONLY

### **18. Can the PE approve the progress estimate without a BABA CMO on file?**

No, the BABA CMO must be on file before the progress estimate can be approved for payment.

### **19. The signature line on the BABA CMO specifies only the Contractor's signature. Does this mean that the Prime is solely responsible for submitting this form?**

Yes, it is the Prime's responsibility to ensure that all the construction material installed by themselves and all the subcontractors for the estimate specified on the form were BABA compliant.

### **20. Do we require separate BABA CMOs for MOH payments?**

Any MOH payments will be covered under the same BABA CMO received for the progress estimate payment. A separate BABA CMO is not required for MOH payments.

### **21. Since the QPL items are already vetted, is a BABA CMO still required for these materials?**

The BABA CMO certifies all the construction materials installed for the progress estimate specified on the form. Products listed on the QPL are not reviewed for BABA compliance.

### **22. Does the BABA CMO certify the material from the previous estimate or is it for the current estimate pay period?**

The BABA CMO certifies material from the current pay estimate as required in the language in the Contract Provisions.

### **23. Does WSDOT need to provide the Contractor with a total for each material installed during the estimate pay period?**

WSDOT does not need to provide the Contractor with a list of material that was installed during the estimate pay period. The BABA CMO is a contractor provided certification that certifies that all construction material installed during the current progress estimate period is BABA compliant.

# Build America/Buy America (BABA) Frequently Asked Questions: Resource Guide for WSDOT Staff

## Emergency Contracting

### **24. Is the BABA CMO required for emergency projects or is there an exemption due to time constraints for these types of projects?**

There is no allowance in the law for emergency projects, BABA CMOs will be required if the project has federal funding or if expecting federal reimbursement later.

Be sure to discuss the BABA requirements with the Contractor before the project begins.

### **25. What if we receive a BABA CMO showing foreign construction material was used on an emergency project?**

The project office will need to follow the guidance in Questions 10 and 11 above.

## Other

### **26. What type of document should the BABA CMO be submitted as in Unifier?**

The BABA CMO will be submitted as a construction submittal in Unifier.

If the BABA CMO shows that foreign construction material was installed, the PE must be notified immediately, and they will need to follow the guidance in question 10 and 11 above.

### **27. Will the QPL be updated to include BABA requirements?**

The QPL will not be updated to include BABA requirements.

The QPL is a database of pre-approved construction materials that have been shown to meet WSDOT Material Quality standards and requirements. Certificate of Materials Origin requirements are contract administrative and not Material Quality standards and requirements. The contractor is required to submit a Certificate of Materials Origin for all construction materials under BABA.